

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RICHARD WOJTCZAK,	:	
Plaintiff,	:	No. 1:01-CV-1163
	:	
v.	:	(Judge Rambo)
	:	
PENNSYLVANIA, DEP'T	:	(Magistrate Judge Mannion)
OF CORRECTIONS, et al.	:	
Defendants,	:	(Electronically Filed)
	:	

**MOTION OF COMMONWEALTH DEFENDANTS TO FILE A
REPLY BRIEF *NUNC PRO TUNC*, AND FOR AN ENLARGEMENT OF
TIME TO FILE THE BRIEF**

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure,

Commonwealth defendants, through their counsel, move the Court for leave to file a reply brief *nunc pro tunc* to the surreply brief filed by *pro se* inmate Richard Wojczak. Commonwealth defendants also request an extension of time to file this brief. In support thereof, Commonwealth defendants state the following:

1. Wojczak filed an amended complaint alleging that Commonwealth defendants refused to accommodate his disabilities.

2. On January 26, 2004, the Commonwealth Defendants moved for summary judgment in their favor and filed a statement of material and undisputed facts, exhibits, and a brief in support of their motion.

3. Wojtczak filed a brief opposing Commonwealth defendants' motion for summary judgment on February 13, 2004.

4. The Commonwealth defendants' filed a reply brief in support of their motion.

5. On February 26, 2003, the Commonwealth defendants received a surreply brief from Wojtczak entitled "Plaintiff's Response to Defendant's Brief in Support of A Motion For Summary Judgement [sic] – Motion to Dismiss (Part 2)".

6. The Commonwealth defendants moved to strike Wojtczak's surreply brief, or, in the alternative, for leave to file a response to the surreply brief.

7. By order dated March 2, 2004, the Court granted Commonwealth defendants leave to respond to Wojtczak's surreply brief.

8. The Court ordered that the Commonwealth defendants file their brief on or before March 2, 2004.

9. Commonwealth defendants respectfully request permission to file their reply brief *nunc pro tunc*.

10. Counsel for the Commonwealth defendants was on vacation outside of the United States from February 27, 2004, through March 5, 2004.

11. Therefore, counsel for the Commonwealth defendants was unable to file a brief on March 2, 2004, pursuant to the Court's March 2, 2004 order.

12. Commonwealth defendants also respectfully request an extension of time of four (4) days to file a brief responding to the new matter in Wojtczak's surreply brief.

13. Commonwealth defendants respectfully seek leave to file their brief on or before March 15, 2004.

14. This is the first request by the Commonwealth defendants for an extension of time.

15. Granting this motion will not unreasonably delay this matter.

WHEREFORE, Commonwealth defendants respectfully request leave to file their reply brief *nunc pro tunc*, and for a four day enlargement of time in which to file this brief.

Respectfully submitted,

GERALD J. PAPPERT
Attorney General

By: s/ Amanda L. Smith
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SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

Date: March 8, 2004

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Defendants,	:	(Electronically Filed)
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CERTIFICATE OF SERVICE

I, Amanda L. Smith, Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on March 8, 2004, I caused to be served a true and correct copy of the foregoing document titled **MOTION OF COMMONWEALTH DEFENDANTS TO FILE A REPLY BRIEF NUNC PRO TUNC, AND FOR AN ENLARGEMENT OF TIME TO FILE THE BRIEF**, by depositing same in the United States Mail, first-class postage prepaid to the following:

**Richard Wojczak, AF-5977
SCI-Laurel Highlands
5706 Glades Pike
P.O. Box 631
Somerset PA 15501**

s/ Amanda L. Smith
AMANDA L. SMITH
Deputy Attorney General